

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER,)	8:08CV307
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
JONES, Nebraska State Trooper, and)	
PRANTZ, Nebraska State Trooper,)	
)	
Defendants.)	

This matter is before the court on its own motion. On September 2, 2008, the court conducted an initial review of the Complaint. (Filing No. [6](#).) In that Memorandum and Order, the court stated that Plaintiff “has failed to clearly describe his own injury in fact and appears to be asserting the rights of a third party.” ([Id.](#) at CM/ECF p. 3.) The court then permitted Plaintiff until September 30, 2008, to amend his Complaint to “clearly describe the events of *his* arrest, and *his* requested relief.” ([Id.](#)) Plaintiff was warned that his failure to file an amended complaint in accordance with the Memorandum and Order would result in dismissal “without further notice.” ([Id.](#))

On September 18, 2008, Plaintiff filed a document titled “Amended Complaint.” (Filing No. [7](#).) This Amended Complaint does not clearly describe Plaintiff’s injury. Rather, the Amended Complaint alleges that while “Plaintiff [sat] . . . in the back [of the] vehicle-Automobile-Car” Defendant Prantz performed a “Contraband” search on “Relator”¹ without consent. ([Id.](#) at CM/ECF p. 2.) Plaintiff alleges that this “Contraband” search “allegedly revealed crack cocaine in plaintiff’s pocket.” ([Id.](#) at CM/ECF pp. 2-3.) Plaintiff, however, does not explain how a

¹“Relator” is not a party to this action and has not signed the Amended Complaint. (Filing No. [7](#).)

“Contraband” search performed on “Relator” could reveal crack cocaine in Plaintiff’s pocket. Further, Plaintiff requests that the court enjoin the “prosecution of relator . . .” (*Id.* at CM/ECF p. 3.) In short, Plaintiff’s Amended Complaint does not “clearly describe the events of *his* arrest, and *his* requested relief.” It is still unclear whether Plaintiff is asserting his own rights, or those of “Relator” or some other third party. In light of these facts, Plaintiff’s Amended Complaint fails to state a claim upon which relief may be granted.

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice for failure to prosecute diligently and for failure to comply with the court’s orders.
2. A separate judgment will be entered in accordance with this Memorandum and Order.

November 18, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge